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Remarks/Arguments

Applicants respectfully traverse the rejections and request reconsideration.

I. Objections to Specification

The Examiner objected to the specification on the grounds that it does not provide antecedent basis for "the spraying means" recited in claims 17, 18, 21, and 22.

Applicants believe that there is sufficient antecedent basis in the specification to support these claims. The specification refers to a "spraying apparatus" (page 5, line 23; page 16, lines 6-7) and a "spray nozzle" (page 15), and states that the thrombin and adhesive and clotting proteins are mixed within the attachment and dispensed out the sprayer (page 15, lines 10-12). In addition, figures 15-19 and 28 show "a spraying apparatus" and figures 20, 21, and 25-27 show a "spray nozzle" (see Brief Description of the Drawings, pages 10-11). Thus, Applicants believe that the specification properly supports the claims.

However, Applicants have amended the specification on page 5 to state: "the spraying means as recited in claims 17, 18, 21, and 22", as requested by the Examiner. Accordingly, the objection to the specification should be withdrawn.

II. Claim Rejections**A. Rejections Under 35 U.S.C. Section 112, First and Second Paragraphs, re "Manipulating... to purge air"**

The Examiner has rejected claims 11-22 under 35 U.S.C. section 112, first and second paragraphs, on the grounds that these claims require a step of "manipulating said plurality of dispensing means to purge air in each of said dispensing lines" and that the specification does not explain how this manipulating is done.

Applicants respectfully note that the specification states that one of the steps of the method is "manipulating said plurality of dispensing means to purge air in each of said dispensing lines" (page 8, lines 1-2). As the Examiner indicated, the specification also states that excess air is expelled before the syringes are loaded (page 14, lines 6-7). Applicants believe that a person skilled in the art would know how to manipulate the

dispensing means (syringes) to purge the air in the lines. Accordingly, these rejections should be withdrawn.

B. Rejections Under 35 U.S.C. Section 112, First and Second Paragraphs, re "Maintaining... desired temperature"

The Examiner has rejected claims 16, 18, 20, and 22 under 35 U.S.C. section 112, first and second paragraphs, on the grounds that these claims require the step of "maintaining contents of said dispensing means at a desired temperature after filling" and that the specification does not explain how the maintaining is done.

Applicants respectfully disagree. The specification states that "the syringes... may also be used with a heating station to maintain the adhesive components at an optimal temperature for use in a surgical setting" (page 5, line 22 - page 6, line 2). Figures 28 and 29 show "a heating apparatus" that holds the syringes (see Brief Description of Drawings, page 11). The specification explains how the heating apparatus works (page 15, line 22 - page 16, line 5):

"Figures 28, 29 depict a heating apparatus 70, which includes a plurality of elongated actuate indentations 72, each shaped with projecting saddles 73 to receive a syringe pair assembly 20 and to ensconce a large portion of each syringe's barrel. The heating apparatus 70 contains resistive heating elements 74 to maintain the assemblies 20 at a constant temperature for heat transfer through indentations 72 and saddles 73. The power cord 76 is connected to a power supply 78, which in turn plugs into an electrical supply outlet. A sensor and microcontroller 76 optimize temperature."

Thus, the requirements of section 112 are met and the rejections should be withdrawn.

C. Rejection Under 35 U.S.C. Section 112, Second Paragraphs re Method and Apparatus

The Examiner has rejected claims 11-22 on the grounds that they are indefinite as to the statutory class (apparatus or method).

Applicants respectfully disagree with this rejection. Independent claim 11 and dependent claims 12-22 are expressly directed to "a method for loading dispensing means with thrombin and clotting proteins" (see claim 11). Claim 11 refers to "the steps" of the method and each element of the claim is expressed in the form of a step, using the verb gerund or "ing" form. The claims in the parent application, now United States patent no. 6,679,300, are directed to an apparatus. The specification supports both method and apparatus claims in that it refers to both a method and an apparatus (see Title, Field of the Invention at page 2, and Objects of the Invention at pages 7-8). The method is clearly described in the specification (page 7, line 20 - page 8, line 3), and is also referred to as a "process" (see Brief Description of the Drawings in the description of figures 6-11) and as a "procedure" (page 14, line 1), both of which indicate the statutory subject matter. Accordingly, this rejection should be withdrawn.

D. Rejection Under 35 U.S.C. Section 102(b)

The Examiner has rejected claims 11-14 under 35 U.S.C. section 102(b) as anticipated by Raines et al., U.S. Patent no. 5,037,390.

Applicants have cancelled claims 11-14 without prejudice.

E. Rejections Under 35 U.S.C. Section 102(e) and Section 103(a)

The Examiner has rejected claims 11 and 12 under 35 U.S.C. section 102(e) as being anticipated by Applicants' U.S. patent no 6,679,300 ("the '300 patent"). The Examiner has also rejected claim 13 under 35 U.S.C. section 103(a) based on the '300 patent, and claims 14-18 under section 103(a) based on the '300 patent in view of Holm (U.S. 5,376,079).

These rejections are improper because this application is a continuation of the application that issued as the '300 patent. Section 102(e) does not apply because: (1) the '300 patent was not an application by "another," as this application is a continuation of the '300 application; and (2) the '300 patent was not based on an application filed before the date of invention of this application, because this is a continuation application and this invention was therefore disclosed in the application from which the '300 patent

issued. Moreover, because this application is a continuation of the '300 patent, the '300 patent is not a proper reference under section 103(a), either alone or in view of another reference such as Holm.


Claims 11-14 have been cancelled. Claims 15-18, however, are allowable because the rejections based on the '300 patent are not proper.

III. Conclusion

Applicants have amended claims 15 and 19 to be rewritten as independent claims to include all of the limitation of the base claim (claim 11) and any intervening claims. In view of the foregoing, it is respectfully requested that claims 15-22 be allowed and that the Examiner pass this case to issue.

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Respectfully submitted,
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